THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23170 of 2005

Dated 27th October 2005

Between:

K.Mallaiah S/o.Ramaiah

…Petitioner

and

The Divisional Manager, APSRTC, Medak Division,

And another

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23170 of 2005

O R D E R:

The petitioner is employed as a conductor in APSRTC. He was issued a Charge Sheet, dated 16.7.1994, alleging that he was unauthorisedly absent for duties, with effect from 29.1.1994 to 8.6.1994, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation, dated 26.7.1994, to the same. On a consideration of the same, the 2nd respondent passed an order, dated 27.7.1994, imposing the penalty of stoppage of annual increment, for a period of two years, with cumulative effect. Aggrieved by the same, the petitioner preferred an appeal before the 1st respondent, on 26.9.1994, but no orders have been passed so far. Hence, this writ petition.

The only point urged by the learned counsel for the petitioner is that the 2nd respondent imposed the penalty of stoppage of annual increment, for a period of two

years, with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty, and it cannot be imposed, except by conducting departmental enquiry.

Learned Standing Counsel for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the 2nd respondent imposed the penalty of stoppage of annual increment, for a period of two years, with cumulative effect, on the basis of the charges levelled against the petitioner. Though the charge sheet was issued to the petitioner, before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments, with cumulative effect, is a major penalty, and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the 2nd respondent, to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated, as the one for stoppage of annual increment, for a period of two years, without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 27.7.1994, passed by the 2nd respondent, shall be treated as the one for stoppage of annual increment, for a period of two years, without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits, up to the date of this order. There shall be no order as to costs.

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27th October 2005

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